

PATENT
Customer No. 22,852
Attorney Docket No. 05725.0848-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:)
)
Nghi VAN NGUYEN et al.) Group Art Unit: 1751
)
Application No.: 09/931,913) Examiner: E. Elhilo
)
Filed: August 20, 2001) Confirmation No.: 4345
)
For: COMPOSITIONS COMPRISING)
AT LEAST ONE HYDROXIDE)
COMPOUND AND AT LEAST ONE)
OXIDIZING AGENT, AND)
METHODS TO STRAIGHTEN)
CURLY HAIR)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicants bring to the attention of the Examiner the documents on the attached listing. This Information Disclosure Statement is being filed before the mailing date of a first Office Action after the filing of a Request for Continued Examination in the above-referenced application.

Copies of the listed documents are attached. Copies of the U.S. patents, U.S. patent publications, and co-pending applications which are available on the Image File Wrapper System are not enclosed.

The United States Court of Appeals for the Federal Circuit held in *Dayco Products, Inc. v. Total Containment, Inc.*, 329 F.3d 1358, 66 U.S.P.Q.2d 1801 (Fed. Cir.

2003), that an "adverse decision" by another examiner may meet the materiality standard under the amended Rule 56, and thus, Applicants should disclose prior rejections of "substantially similar claim[s]" to the Office. Accordingly, although Applicants are not representing that the Office Actions in the co-pending applications are material to the present application and are not admitting that any of the other claims are substantially similar, out of an abundance of caution, Applicants have listed the substantive office actions in co-pending applications on the attached form.

Applicants respectfully request that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the attached form.

With respect to the non-English language documents, Applicants submit the following remarks:

1. **DE 28 23 243** - An abstract of the disclosure of this document can be found in the English language Derwent abstract submitted herewith.
2. **DE 35 19 463** - An abstract of the disclosure of this document can be found in the English language Derwent abstract submitted herewith.
3. **DE 43 26 974** - An abstract of the disclosure of this document can be found in the English language Derwent abstract submitted herewith.
4. **EP 0 354 835** - This document is believed to be related to U.S. Patent Nos. 4,956,175, 5,015,767, and 5,106,612.
5. **EP 0 465 342** - An abstract of the disclosure of this document can be found in the English language Derwent abstract submitted herewith.

6. **EP 0 512 879** - This document is believed to be related to U.S. Patent No. 5,628,991.
7. **EP 0 714 654 A1** - This document is believed to be related to U.S. Patent No. 5,637,295.
8. **EP 0 726 251 A1** - This document is believed to be related to U.S. Patent No. 5,679,332.
9. **JP 0 51 9013** - This application is believed to be related to JP 76-09013, an English language Derwent abstract of which is submitted herewith.
10. **WO 01/74318** - An English language abstract of the disclosure of this document can be found on the front of this document.
11. **WO 93/01791** - An English language abstract of the disclosure of this document can be found on the front of this document.
12. **International Search Report for PCT/US01/43193** - This is the Search Report for the International Application related to Attorney Docket Nos. 05725.0534-00 and 05725.0534-01.
13. **International Search Report for PCT/US02/03392** - This is the Search Report for the International Application related to Attorney Docket No. 05725.0535.
14. **International Search Report for PCT/US02/08270** - This is the Search Report for the International Application related to Attorney Docket No. 05725.0505.
15. **International Search Report for PCT/US02/21846** - This is the Search Report for the International Application related to Attorney Docket No. 05725.0798.

16. **ZAHN, Helmut, "N,O-Peptidyl shift, disulfide exchange, and lanthionine formation in wool and other proteins containing cystine," *Chimia (Switz.)* (1961), 15, 378-94** - This document is cited in the International Search Report for PCT/US02/08270, related to 05725.0505.

This submission does not represent that a search has been made or that no better art exists and does not constitute an admission that each or all of the listed documents are material or constitute "prior art." If the Examiner applies any of the documents as prior art against any claims in the application and Applicants determine that the cited documents do not constitute "prior art" under United States law, Applicants reserve the right to present to the Examiner the relevant facts and law regarding the appropriate status of such documents.

Applicants further reserve the right to take appropriate action to establish the patentability of the disclosed invention over the listed documents, should one or more of the documents be applied against the claims of the present application.

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If there is any fee due in connection with the filing of this Statement, please
charge the fee to our Deposit Account No. 06-0916.

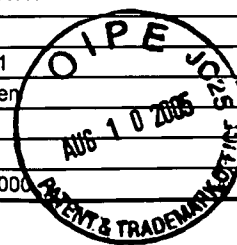
Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 10, 2005

By: Mareesa A. Frederick
Mareesa A. Frederick
Reg. No. 55,190

IDS Form PTO/SB/08: Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary)			Complete if Known		
			Application Number	09/931,913	
			Filing Date	August 20, 2001	
			First Named Inventor	Nghi Van Nguyen	
			Art Unit	1751	
			Examiner Name	E. Elhilo	
Sheet	1	of	5	Attorney Docket Number	05725.0848-00000

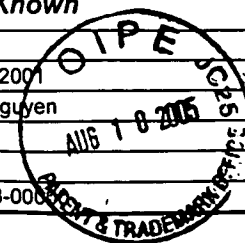


U.S. PATENTS AND PUBLISHED U.S. PATENT APPLICATIONS					
Examiner Initials	Cite No.	Document Number	Issue or Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code (if known)			
/E.E./	1.	2,405,166	8/6/1946	Reed et al.	
	2.	2,464,280	3/15/1949	Reed et al.	
	3.	2,464,281	3/15/1949	Peterson	
	4.	2,564,722	8/21/1951	Reed et al.	
	5.	2,719,814	10/4/1955	Haefele	
	6.	3,017,328	1/16/1962	Childrey, Jr. et al.	
	7.	3,066,077	11/27/1962	De Mytt et al.	
	8.	3,242,052	3/22/1966	Sheffner	
	9.	3,243,346	3/29/1966	Bechmann et al.	
	10.	3,252,866	5/24/1966	Sheffner	
	11.	3,533,417	10/13/1970	Bartoszewicz et al.	
	12.	3,654,936	4/11/1972	Wajaroff	
	13.	4,139,610	2/13/1979	Miyazaki et al.	
	14.	4,153,681	5/8/1979	Shiba	
	15.	4,175,572	11/27/1979	Hsiung et al.	
	16.	4,218,435	8/19/1980	Shiba	
	17.	4,272,517	6/9/1981	Yoneda et al.	
	18.	4,303,085	12/1/1981	de la Guardia et al.	
	19.	4,304,244	12/8/1981	de la Guardia	
	20.	4,314,572	2/9/1982	de la Guardia et al.	
	21.	4,322,401	3/30/1982	Harada	
	22.	4,324,263	4/13/1982	de la Guardia	
	23.	4,361,157	11/30/1982	James	
	24.	4,373,540	2/15/1983	de la Guardia	
	25.	4,390,033	6/28/1983	Khalil et al.	
	26.	4,416,296	11/22/1983	Meyers	
	27.	4,509,983	4/9/1985	Szabó et al.	
/E.E./	28.	4,605,018	8/12/1986	de la Guardia et al.	

Examiner Signature	/Eisa Elhilo/	Date Considered	8/25/2005
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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Sheet <u>2</u> of <u>5</u>			Filing Date	August 20, 2001
			First Named Inventor	Nghi Van Nguyen
			Art Unit	1751
			Examiner Name	E. Elhilo
			Attorney Docket Number	05725.0848-000

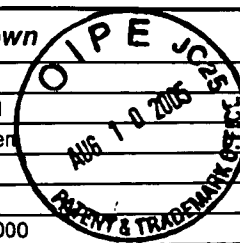


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		Number-Kind Code (if known)			
/E.E./	29.	4,783,395	11/8/1988	Hsieh et al.	
	30.	4,793,994	12/27/1988	Helioff et al.	
	31.	4,895,722	1/23/1990	Abe et al.	
	32.	4,898,726	2/6/1990	Beste	
	33.	4,950,485	8/21/1990	Akhtar et al.	
	34.	4,956,175	9/11/1990	Maignan et al.	
	35.	5,015,767	5/14/1991	Maignan et al.	
	36.	5,077,042	12/31/1991	Darkwa et al.	
	37.	5,106,612	4/21/1992	Maignan et al.	
	38.	5,154,918	10/13/1992	Maignan et al.	
	39.	5,223,252	6/29/1993	Kolc et al.	
	40.	5,332,570	7/26/1994	Bergstrom et al.	
	41.	5,348,737	9/20/1994	Syed et al.	
	42.	5,376,364	12/27/1994	Darkwa et al.	
	43.	5,523,078	6/4/1996	Baylin	
	44.	5,565,216	10/15/1996	Cowsar et al.	
	45.	5,609,859	3/11/1997	Cowsar	
	46.	5,628,991	5/13/1997	Samain et al.	
	47.	5,637,295	6/10/1997	Lang et al.	
	48.	5,641,477	6/24/1997	Syed et al.	
	49.	5,679,327	10/21/1997	Darkwa et al.	
	50.	5,679,332	10/21/1997	Braun et al.	
	51.	5,682,991	5/13/1997	Samain et al.	
	52.	5,753,215	5/19/1998	Mougin et al.	
	53.	5,824,295	10/20/1998	Syed et al.	
	54.	5,849,277	12/15/1998	Cowsar	
	55.	5,935,558	8/10/1999	Malle	
/E.E./	56.	5,961,667	10/5/1999	Doehling et al.	

Examiner Signature	/Eisa Elhilo/	Date Considered	8/25/2005
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		Examiner Name	E. Elhilo
		Attorney Docket Number	05725.0848-00000
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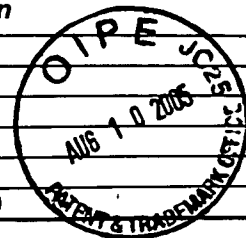
U.S. PATENTS AND PUBLISHED U.S. PATENT APPLICATIONS					
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		Number-Kind Code (if known)			
/E.E./	57.	6,287,582 B1	9/11/2001	Gott et al.	
↓	58.	6,435,193	8/20/2002	Cannell et al.	
	59.	6,782,895	8/31/2004	Van Nguyen et al.	
	60.	6,792,954	9/21/2004	Cannell et al.	
/E.E./	61.	US-2002/0189027 A1	12/19/2002	Cannell et al.	

FOREIGN PATENT DOCUMENTS						
Examiner Initials	Cite No.	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	Translation
		Country Code Number Kind Code (if known)				
/E.E./	62.	DE 28 23 243	11/29/1979	Wella Aktiengesellschaft		Abstract
↓	63.	DE 35 19 463 A1	12/4/1986	Wella Aktiengesellschaft		Abstract
	64.	DE 43 26 974 A1	5/5/1994	Henkel KGaA		Abstract
	65.	EP 0 354 835 A1	2/14/1990	L'Oreal		
	66.	EP 0 465 342 A1	1/8/1992	L'Oreal		Abstract
	67.	EP 0 512 879 A2	11/11/1992	L'Oreal		
	68.	EP 0 667 141 A2	8/16/1995	Helene Curtis, Inc.		
	69.	EP 0 712 623	5/22/1996	Shiseido Company Limited		
	70.	EP 0 714 654 A1	6/5/1996	Wella Aktiengesellschaft		
	71.	EP 0 726 251 A1	8/14/1996	Wella Aktiengesellschaft		
	72.	GB 1,002,889	9/2/1965	Mead Johnson & Company		
	73.	JP 51 9013	3/23/1976	Umezawa		Abstract
	74.	WO 89/06122 A	7/13/1989	Repligen Corporation		
	75.	WO 93/01791 A	2/4/1993	L'Oreal		Abstract
	76.	WO 97/07775	3/6/1997	Johnson Products Co., Inc.		
	77.	WO 01/64171 A2	9/7/2001	L'Oreal		
/E.E./	78.	WO 01/74318 A2	10/11/2001	Wella Aktiengesellschaft		Abstract

Examiner Signature	/Eisa Elhilo/	Date Considered	8/25/2005
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		Examiner Name	E. Elhilo
		Attorney Docket Number	05725.0848-00000
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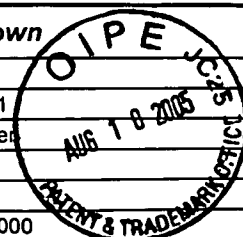
FOREIGN PATENT DOCUMENTS					
	79.	WO 02/67875 A1	9/6/2002	L'Oreal	

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	Translation
/E.E./	80.	BASF Corporation on-line catalog http://www.basf.com/businesses/consumer/cosmeticingredients/pdfs/ethnic_haircare.pdf	
	81.	CLARIANT, "Tylose Water-soluble cellulose ethers", Product range and fields of Application	
	82.	Co-pending Application No. 10/214,942 - Attorney Docket No. 05725.0534-01000 Title: Hair Relaxer Compositions Utilizing Cation Exchange Composition	
	83.	English language Derwent Abstract for DE 28 23 243 (11-1979)	
	84.	English language Derwent Abstract for DE 35 19 463 (12-1986)	
	85.	English language Derwent Abstract for DE 43 26 974 (5-1994)	
	86.	English language Derwent Abstract for EP 0 465 342 (1-1992)	
	87.	English language Derwent Abstract for JP 60021704 (4-1985)	
	88.	English language Derwent Abstract for JP 76-09013 (3-1976)	
	89.	Examiner's Answer dated Jun. 14, 2005, in co-pending Application No. 09/838,197 (Attorney Docket No. 05725.0505).	
	90.	International Search Report for International Application No. PCT/US01/43193 (Related to Attorney Docket Nos. 05725.0534-00 and 05725.0534-01), July 5, 2002, Examiner Simon.	
	91.	International Search Report for International Application No. PCT/US02/03392 (Related to Attorney Docket No. 05725.0535), May 8, 2002, Examiner Bertrand	
	92.	International Search Report for International Application No. PCT/US02/08270 (Related to Attorney Docket No. 05725.0505), August 7, 2002, Ex. Bertrand	
	93.	International Search Report for International Application No. PCT/US02/21846 (Related to Attorney Docket No. 05725.0798), November 8, 2002, Ex. Marie	
	94.	International Search Report for International Application No. PCT/US02/21849 (Related to Attorney Docket No. 05725.0593), May 25, 2003, Examiner Menidjel.	
	95.	Office Action dated Apr. 28, 2003, in co-pending Application No. 09/931,914 (Attorney Docket No. 05725.0798) (issued as U.S. Patent No. 6,782,895)	
/E.E./	96.	Office Action dated April 12, 2005, in co-pending Application No. 09/789,667 (Attorney Docket No. 05725.0535-00).	

Examiner Signature	/Eisa Elhilo/	Date Considered	8/25/2005
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			Art Unit	1751	
			Examiner Name	E. Elhilo	
			Attorney Docket Number	05725.0848-00000	
Sheet	5	of	5		



NON PATENT LITERATURE DOCUMENTS			
Examiner Initials	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	Translation
/E.E./	97.	Office Action dated Aug. 6, 2003, in co-pending Application No. 09/838,197 (Attorney Docket No. 05725.0505)	
	98.	Office Action dated Dec. 16, 2003, in co-pending Application No. 10/214,942 (Attorney Docket No. 05725.0534-01) (Now issued as U.S. Patent No. 6,792,954)	
	99.	Office Action dated Feb. 6, 2003, in co-pending Application No. 09/838,197 (Attorney Docket No. 05725.0505)	
	100.	Office Action dated February 5, 2003, in co-pending Application No. 09/789,667 (Attorney Docket No. 05725.0535-00)	
	101.	Office Action dated Jul. 22, 2004, in co-pending Application No. 09/838,197 (Attorney Docket No. 05725.0505).	
	102.	Office Action dated July 26, 2004, in co-pending Application No. 09/789,667 (Attorney Docket No. 05725.0535-00).	
	103.	Office Action dated July 31, 2003, in co-pending Application No. 09/789,667 (Attorney Docket No. 05725.0535-00).	
	104.	Office Action dated March 8, 2005, in co-pending Application No. 09/931,912 (Attorney Docket No. 05725.0593-00).	
	105.	Office Action dated May 24, 2004, in co-pending Application No. 09/931,912 (Attorney Docket No. 05725.0593-00).	
	106.	Office Action dated October 27, 2003 in co-pending Application No. 09/931,912 (Attorney Docket No. 05725.0593-00).	
	107.	Office Action dated Sept. 9, 2003, in co-pending Application No. 09/931,914 (Attorney Docket No. 05725.0798) (issued as U.S. Patent No. 6,782,895)	
	108.	Office Action dated September 10, 2002, in co-pending Application No. 09/789,667 (Attorney Docket No. 05725.0535-00)	
	109.	Robbins, Clarence R., "Chemical and physical behavior of human hair," pp 124-126, 148-151, and 162-163, Springer (2002).	
	110.	Schoon, Douglas D., "Hair structure and chemistry simplified", Revised edition, pp. 191-192, Milady Publishing Co. (1993).	
	111.	ZAHN, Helmut, "N,O-Peptidyl shift, disulfide exchange, and lanthionine formation in wool and other proteins containing cystine," Chimia (Switz.) (1961), 15, 378-94,	
/E.E./	112.	Zviak, C., The Science of Hair Care, pp 185-186 (1986).	

Examiner Signature	/Eisa Elhilo/	Date Considered	8/25/2005
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